

Minneapolis City Planning Department Report

Rezoning, Conditional Use Permit, 7 Variances, Site Plan Review and a Preliminary Plat BZZ-1112

Date: May 12, 2003

Applicant: Marcia Cartwright for HOPE Community

Address of Property: 2000 and 2012 Portland Avenue

Project Name: The Jourdain, Phase II

Date Application Deemed Complete: March 12, 2003

End of 60-Day Decision Period: May 17, 2003

End of 120-Day Decision Period: Not applicable

Applicant has Waived 60-Day Requirement: No

Contact Person and Phone: Marcia Cartwright, (612) 874-8867

Planning Staff and Phone: Hilary Watson, (612) 673-2639

Ward: 6 **Neighborhood Organization:** Ventura Village

Existing Zoning: C1 and R4

Proposed Zoning: OR2

Proposed Use: 41 rental apartment units and approximately 4,000 square feet of commercial space

Concurrent Review:

Rezoning: the properties located at 2000 and 2012 Portland Avenue from C1 and R4 to OR2 for Phase II of a multi-phased Planned Unit Development

Conditional Use Permit: for Phase II of a multi-phased Planned Unit Development

Variance: to reduce the front yard setback along Portland Avenue from the required 15 feet to 8 feet to allow for the construction of a portion of a mixed-use building and to 0 feet to allow for the construction of a portion of a mixed-use building.

Variance: to reduce the front yard setback along Portland Avenue from the required 15 feet to 3 feet to allow for the construction of four patios.

Variance: to reduce the corner side yard setback along Franklin Avenue from the required 14 feet to 2 feet to allow for the construction of a mixed-use building.

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Variance: to reduce the rear yard setback from the required 11 feet to 8 feet to allow for the construction of a mixed-use building.

Variance: to reduce the south interior side yard setback from the required 11 feet to 9 feet 6 inches to allow for the construction of a mixed-use building.

Variance: to reduce the south interior side yard setback from the required 15 feet to 9 feet 6 inches to allow for a side entrance to be located on the mixed-use building

Variance: to increase the gross floor area of the Neighborhood Serving Retail Sales and Services use from the permitted 2,000 square feet to 4,000 square feet

Major Site Plan Review

Travel Demand Management Plan

Preliminary Plat (PL-130)

Previous Actions: None that are relevant to this development

Background: The proposed development is located in the Ventura Village Neighborhood. The site is located on the southwest corner of the intersection of Franklin Avenue and Portland Avenue. Currently, there is a vacant commercial building on the site and one vacant lot. Located on the same block as the proposed development are several residential buildings.

The development involves the construction of a four-story, mixed-use building including 41 apartments with neighborhood serving retail sales and service use space on the ground floor with one level of below-ground parking. In addition there is an outdoor recreation area for the tenants of the building located towards the rear of the site.

The site is currently zoned C1 and R4. In order to construct a mixed-use building including 41 apartments with neighborhood serving retail sales and service use space on the ground floor with one level of below-ground parking on the site the site needs to be rezoned to the OR2 zoning district. Residential buildings of five or more units require a Conditional Use Permit. In addition, six setback variances, a variance to increase the size of the neighborhood serving retail sales and service use, major site plan review and a preliminary plat are needed.

The Bigger Picture: The Jourdain is the second phase of a multi-phase project that HOPE Community is proposing to construct near and around the intersection of Franklin Avenue and Portland Avenue. Children's Village Center, Phase I of the multi-phase project, was approved by the City Planning Commission in April of 2002. The Franklin-Portland Gateway is proposed to be developed as one cohesive project even though the individual phases will be funded and constructed at different times. Once completed, the Gateway will contain approximately 250-300 dwelling units, including rental and homeownership, and approximately 28,000 square feet of both office and commercial space.

Phase One: Children's Village Center is a mixed-use building consisting of both office and residential uses. This building is located on the southeast corner of the intersection. The first floor of the building will be office space and the upper three floors will be 30 rental dwellings.

Hope Community Court is also part of phase one. This development consists of 10 rental and for-sale dwellings.

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The redevelopment of the existing Pine Cliff Apartment building is also part of phase one. This project consists of the renovation of the 30 rental dwellings.

Phase Two: The Jourdain is a mixed-use building consisting of both commercial and residential uses. This building is located on the southwest corner of the intersection. The first floor of the building will be commercial and residential and the upper three floors will be all residential.

Phase Three: The final phase of the development consists of several buildings located on both the northeast and northwest corners of the intersection. The building located on the northeast corner will be a four-story building consisting of both commercial space and 87 units of both for-sale and rental dwellings. The building located in the northwest corner will be a four-story building consisting of both commercial and 106 units of rental dwellings.

Exceptions to Zoning Ordinance Standards: Chapter 527, Planned Unit Development authorizes the City Planning Commission to approve exceptions to the zoning regulations that are applicable to the zoning district in which the development is located. This may be done only upon finding that the Planned Unit Development includes adequate site amenities to address any adverse effects of the exception.

Placement of Structures: In a Planned Unit Development there may be more than one principal structure located on a lot. This development has only one building located on the lot.

Bulk Regulations:

Floor Area: The floor area ratio for the OR2 zoning district is 2.5. In a Planned Unit Development the floor area ratio may be increased up to 20 percent. This development has a floor area ratio of 2.14.

Building Height: The height requirement in the OR2 zoning district is four stories, not to exceed 56 feet. In a Planned Unit Development the height of structures may be increased. The height of the development measures four stories (approximately 42 feet measured to the top of the roof).

Lot Requirements:

Generally: The minimum lot area for Planned Unit Developments in the OR2 zoning district is two acres or 700 square feet per dwelling unit, whichever is greater. This site contains 23,788 square feet. Staff recognizes that this is not two acres. However, Planned Unit Developments may be separated by a public right-of-way, a railroad right-of-way, or a stream, except for the Mississippi River. This site, in conjunction with the rest of the Franklin-Portland Gateway development, contains approximately 199,093 square feet or 4.570 acres. This is in excess of two acres (please see the master plan map).

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Density Bonus: The minimum lot area for Planned Unit Developments in the OR2 zoning district is two acres or 700 square feet per dwelling unit, whichever is greater. In a Planned Unit Development the minimum lot area per dwelling unit may be reduced up to twenty percent. This development could provide up to 33 dwelling units on this site. The applicant is proposing to have 41 units on this site. In Phase I of the development a total of 45 dwelling units could have been built. Only 30 dwelling units were built and therefore an additional 15 dwelling units are available to transfer to Phase II. Therefore a density bonus is not needed for this development in order to build the additional eight units.

Yards: This development's front yard is along Portland Avenue, the corner side yard is along Franklin Avenue, the interior side yard is the south property line and the rear yard is the alley. The front yard setback requirement is 15 feet, the corner side yard setback is 14 feet, the rear yard setback is 11 feet and the south interior side yard setback is 11 feet. The applicant has applied to vary all of the yard requirements

On-Premise Signs: In the OR2 zoning district, a wall sign is permitted if smaller than 180 square feet. However, signs for neighborhood serving retail sales and service uses cannot exceed 30 square feet. The applicant is proposing to have five wall signs on the building. One of the signs is for the residential portion of the building and the other four signs are for the neighborhood serving retail sales and service portion of the building. Two of the signs for the neighborhood serving retail sales and service portion of the building exceed 30 square feet. The applicant has indicated that these two signs will be reduced in size so as to not exceed 30 square feet.

Off-Street Parking and Loading: The parking requirement for this development is 49 parking stalls – 41 parking stalls for the residential portion and 8 parking stalls for the neighborhood serving retail sales and service portion. There are 45 parking stalls provided of which 39 are located in an underground parking garage, 5 are located in a surface parking lot and the bicycle storage area can count for one automobile parking stall. Staff believes that although this development is not meeting its parking requirement that there is sufficient parking on the site for the uses within the building. The proposed neighborhood serving retail sales and service uses will be small in size and are designed to service the tenants within the building as well as those living in the immediate vicinity. The applicant is not intending to have uses in the building that will attract people who will have to drive to the location for the goods or the services.

Uses: In a Planned Unit Development additional uses, including small neighborhood serving retail sales and service uses, may be allowed as part of the development when the following standards are met: 1) Such uses are designed primarily for the residents of the planned development and of adjacent areas which are within convenient walking distance of the use. 2) All additional uses, except residential uses, shall be located on the ground or first floor. 3) The uses are not of such a nature or so located as to have a detrimental impact on the surrounding neighborhood or the character of the planned development. And 4) Not more than twenty (20) percent of the gross floor area of the planned development shall be devoted to such additional uses. In this particular situation the applicant is proposing to locate small neighborhood serving retail sales and service uses on the ground floor of the development. Staff believes that because

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the space dedicated to the neighborhood serving retail sales and service uses is less than 4,000 square feet in size that it will mostly be utilized by those living within the building or within the surrounding neighborhood.

Neighborhood Review: The applicant notified Ventura Village about the development by letter on Tuesday, March 11, 2003. Staff has not received a response from the neighborhood.

REZONING – From C1 and R2B to OR2

Zoning Plate Number: 20

Legal Description: Parcel 1: Lot Four (4), Block One (1), Stevens Addition to Minneapolis, Hennepin County, Minnesota. (Torrens Certificate No. 1056944)

Parcel 2: Lots 1, 2, and 3, Block 1, Stevens Addition to Minneapolis, according to the recorded plat thereof, and situate in Hennepin County, Minnesota.

Findings as Required by the Minneapolis Zoning Code for a Rezoning:

1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.

This site is located in a medium-density residential area and along a designated Commercial Corridor (Franklin Avenue). According to the Principles and Policies outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Encourage reinvestment along major urban corridors as a way of promoting growth in all neighborhoods.
- Support development in commercial corridors where it enhances the street's character, improves its ability to accommodate automobile traffic and foster pedestrian movement, and expands the range of goods and services.
- Increase the variety of housing types (affordability, style, location) throughout the city, its communities and metro area, giving prospective buyers and renters greater choice in where they live.
- Increase the city's population and tax base by developing and supporting housing choices citywide through preservation of existing housing and new construction.
- Encourage in-fill housing.
- Support the development of residential dwellings of appropriate form and density.

This proposal is consistent with the comprehensive plan.

2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.

The amendment will allow the property owner to utilize the site for a mixed-use building including 41 apartments with neighborhood serving retail sales and service use space on the ground floor with one level of below-ground parking. The policy makers within the city have set a goal of building a certain percentage of affordable housing units in the city. This development is providing a total of 41 dwelling units. Twenty-six of the units will be affordable at sixty percent of the area medium income and fifteen of the units will be market rate. Allowing this project will aid the city in meeting its affordable housing numbers goal.

3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.

The site is bordered by C1 zoning to the north, R4 zoning to the west and the south and OR2 zoning to the east. Adjacent uses include single and two-family dwellings, multiple-family dwellings, commercial uses located along Franklin Street and a public park. The zoning in the surrounding area includes R4, R5 and R6 and OR3 and OR2. The proposed zoning district is compatible with the immediately surrounding area.

4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.

There are reasonable uses of the property permitted under the R4 and C1 zoning classifications. The R4 zoning classification is a medium-density residential district. Permitted uses in the R4 district include but are not limited to the following:

- single family dwellings
- multiple-family dwellings of three and four units
- community residential facilities
- community gardens
- public parks
- religious institutions

The C1 zoning classification is a neighborhood commercial district. Permitted uses in the C1 district include but are not limited to the following:

- general retail sales and services
- child care centers
- grocery stores
- offices
- sit down restaurants with limited entertainment
- multiple-family dwellings of three and four units

5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.

Under the 1963 Zoning Code the subject site was zoned B3S-2 and R4. These are similar zoning classifications as to the current zoning classifications. There have been several new residential developments built throughout this area of the city. HOPE Community is responsible for the rehabilitation of several of the properties in the area.

RECOMMENDATION OF THE CITY PLANNING DEPARTMENT:

The City Planning Department recommends that the City Planning Commission and City Council adopt the above findings and **approve** the rezoning for the properties located at 2000 and 2012 Portland Avenue from C1 and R4 to OR2 for Phase II of a multi-phased Planned Unit Development.

CONDITIONAL USE PERMIT

Findings as Required by the Minneapolis Zoning Code for the Conditional Use Permit for the Use – Planned Unit Development:

The Minneapolis City Planning Department has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

1. Will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

The proposed development would add a mixed-use development including 41 dwellings to a site that is currently vacant. All 41 of the dwellings will be rented. Forty-one dwellings should not be detrimental to the public health, safety and general welfare.

2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.

Use

Utilizing the site for a mixed-use development including 41 dwellings would provide additional opportunities for housing within the city. The addition of 41 dwellings will promote visibility in the neighborhood. There will be an on-site management service that will maintain the building and its grounds and therefore will help preserve the characteristics of this neighborhood. Adjacent uses include single and two-family dwellings, multiple-family dwellings, commercial uses located along Franklin Street and a public park. The mixed-use development should not negatively impact the adjacent uses.

Character

The proposed height (4 stories) of the development will be compatible with the varying heights of the surrounding buildings. The applicant proposes the use of building materials and colors that are also compatible with the surrounding buildings.

Parking and Access

The parking requirement for this development is 49 parking stalls – 41 parking stalls for the residential portion and 8 parking stalls for the neighborhood serving retail sales and service portion. There are 45 parking stalls provided of which 39 are located in an underground parking garage, 5 are located in a surface parking lot and the bicycle storage area can count for one automobile parking stall. Staff believes that although this development is not meeting its parking requirement that there is sufficient parking on the site for the uses within the building. The proposed neighborhood serving retail sales and service uses will be small in size and are designed to service the tenants within the building as well as those living in the immediate vicinity. The applicant is not intending to have uses in the building that will attract people who will have to drive to the location for the goods or the services.

3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.

The applicant will be working closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.

The parking requirement for this development is 49 parking stalls – 41 parking stalls for the residential portion and 8 parking stalls for the neighborhood serving retail sales and service portion. There are 45 parking stalls provided of which 39 are located in an underground parking garage, 5 are located in a surface parking lot and the bicycle storage area can count for one automobile parking stall. The underground parking garage is accessed via the public alley.

5. Is consistent with the applicable policies of the comprehensive plan.

This site is located in a medium-density residential area and along a designated Commercial Corridor (Franklin Avenue). According to the Principles and Policies outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Support development in commercial corridors where it enhances the street's character, improves its ability to accommodate automobile traffic and foster pedestrian movement, and expands the range of goods and services.
- Increase the variety of housing types (affordability, style, location) throughout the city, its communities and metro area, giving prospective buyers and renters greater choice in where they live.
- Increase the city's population and tax base by developing and supporting housing choices citywide through preservation of existing housing and new construction.

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- Encourage in-fill housing.
- Maintain and strengthen the character of the city's various residential areas.

This proposal is consistent with the comprehensive plan.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of the conditional use permits, variances, site plan review and vacation.

With the approval of the rezoning, conditional use permit, seven variances, site plan review and the preliminary plat the project will be in conformance with the requirements of the zoning code.

RECOMMENDATION OF THE CITY PLANNING DEPARTMENT:

The City Planning Department recommends that the City Planning Commission approve the conditional use permit for the properties located at 2000 and 2012 Portland Avenue for Phase II of a multi-phased Planned Unit Development subject to the following conditions:

1. The Planning Department shall approve the final site, elevation and landscaping plans.
2. Prior to Phase Three of the development being reviewed by the City Planning Commission the Travel Demand Management Plan needs to be approved by the Public Works Department and the Planning Department.

Phase Three of the Planned Unit Development shall be reviewed and approved by the Planning Department as a modification to BZZ-1112.

VARIANCE to reduce the front yard setback along Portland Avenue from the required 15 feet to 8 feet to allow for the construction of a portion of a mixed-use building and to 0 feet to allow for the construction of a portion of a mixed-use building.

Findings as Required by the Minneapolis Zoning Code for the Variance:

1. **The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

Front yard setback: The applicant is seeking a variance to reduce the front yard setback along Portland Avenue from the required 15 feet to 8 feet to allow for the construction of a portion of a mixed-use building and to 0 feet to allow for the construction of a portion of a mixed-use building. Only the northern third of the building is setback zero feet from the front property line. The applicant has indicated that the building has been pushed forward on the lot in order to create a "back yard" for the residents to utilize and to limit the amount of space between the building and the sidewalk in order to limit the amount of loitering on the site. The applicant has also indicated that the building has been pushed forward on the lot in order to accommodate for the approach to the underground parking garage and to accommodate for as many parking stalls below the building as possible. The applicant has

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pointed out that the adjacent house to the south is located 12 feet from the front property line and six feet from the shared interior property line.

2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

Front yard setback: The need to accommodate for the approach to the underground parking garage and to accommodate for as many parking stalls below the building are unique physical characteristics of this site. It is also desirable to locate uses close to property lines in order to provide eyes on the street.

3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

Front yard setback: Staff believes that the granting of this variance would be in keeping with the spirit and intent of the ordinance. The placement of the adjacent house to the south is such that it should not be impacted by the placement of the proposed building. Staff also believes that because the proposed building is located closer to the street than the adjacent houses on the block that it will provide a sound barrier between them and the intersection of Franklin and Portland Avenues.

4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

Front yard setback: Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed setbacks be detrimental to welfare or public safety.

RECOMMENDATION OF THE CITY PLANNING DEPARTMENT:

The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the front yard setback along Portland Avenue from the required 15 feet to 8 feet to allow for the construction of a portion of a mixed-use building and to 0 feet to allow for the construction of a portion of a mixed-use building.

VARIANCE to reduce the front yard setback along Portland Avenue from the required 15 feet to 3 feet to allow for the construction of four patios.

Findings as Required by the Minneapolis Zoning Code for the Variance:

1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.

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Front yard setback: The applicant is seeking a variance to reduce the front yard setback along Portland Avenue from the required 15 feet to 3 feet to allow for the construction of four patios. The applicant has indicated that patios are being incorporated into the design of the site in order to provide an outdoor space on the front of the building where the residents will be able to help monitor what goes on along the street. The applicant has also indicated that the building has been pushed forward on the lot in order to accommodate for the approach to the underground parking garage and to accommodate for as many parking stalls below the building as possible.

2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

Front yard setback: The need to accommodate for the approach to the underground parking garage and to accommodate for as many parking stalls below the building are unique physical characteristics of this site. It is also desirable to locate uses close to property lines in order to provide eyes on the street.

3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

Front yard setback: Staff believes that the granting of this variance would be in keeping with the spirit and intent of the ordinance. The proposed patios will be elevated approximately three feet off of the ground providing a private space for the residents to enjoy while at the same time providing for additional security along the street.

4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

Front yard setback: Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed setback be detrimental to welfare or public safety.

RECOMMENDATION OF THE CITY PLANNING DEPARTMENT:

The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the front yard setback along Portland Avenue from the required 15 feet to 3 feet to allow for the construction of four patios.

VARIANCE to reduce the corner side yard setback along Franklin Avenue from the required 14 feet to 2 feet to allow for the construction of a mixed-use building.

Findings as Required by the Minneapolis Zoning Code for the Variance:

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1. **The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

Corner side yard setback: The applicant is seeking a variance to reduce the corner side yard setback along Franklin Avenue from the required 14 feet to 2 feet to allow for the construction of a mixed-use building. The applicant has indicated that the building has been pushed towards the corner of the lot in order to accommodate for as many parking stalls below the building as possible. The applicant has pointed out that the adjacent house to the west is separated from the proposed building by a public alley and a garage.

2. **The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

Corner side yard setback: The need to accommodate for as many parking stalls below the building is a unique physical characteristic of this site. It is also desirable to locate uses close to property lines in order to provide eyes on the street.

3. **The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

Corner side yard setback: Staff believes that the granting of this variance would be in keeping with the spirit and intent of the ordinance. The placement of the adjacent house to the west is such that it should not be impacted by the placement of the proposed building. Staff also believes that it is beneficial to locate the building closer to the property line for security purposes.

4. **The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

Corner side yard setback: Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed setback be detrimental to welfare or public safety.

RECOMMENDATION OF THE CITY PLANNING DEPARTMENT:

The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the corner side yard setback along Franklin Avenue from the required 14 feet to 2 feet to allow for the construction of a mixed-use building.

VARIANCE to reduce the rear yard setback from the required 11 feet to 8 feet to allow for the construction of a mixed-use building.

Findings as Required by the Minneapolis Zoning Code for the Variance:

- 1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

Rear yard setback: The applicant is seeking a variance to reduce the rear yard setback from the required 11 feet to 8 feet to allow for the construction of a mixed-use building. Only the northern third of the building is setback eight feet from the rear property line. The applicant has indicated that the building has been pushed towards the rear of the lot in order to create a more private “back yard” for the residents to utilize. The applicant has also indicated that the building has been pushed towards the back of the lot in order to accommodate for as many parking stalls below the building as possible. The applicant has pointed out that the adjacent houses to the west are separated from the proposed building by the public alley and a row of garages.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

Rear yard setback: The need to accommodate for as many parking stalls below the building is a unique physical characteristic of this site.

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

Rear yard setback: Staff believes that the granting of this variance would be in keeping with the spirit and intent of the ordinance. The placement of the adjacent houses to the west are such that they should not be impacted by the placement of the proposed building. Staff also believes that by locating the northern third of the building closer to the rear property line creates a more private “back yard” for the residents to utilize.

- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

Front yard setback: Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed setback be detrimental to welfare or public safety.

RECOMMENDATION OF THE CITY PLANNING DEPARTMENT:

The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the rear yard setback from the required 11 feet to 8 feet to allow for the construction of a mixed-use building.

VARIANCE to reduce the south interior side yard setback from the required 11 feet to 9 feet 6 inches to allow for the construction of a mixed-use building.

Findings as Required by the Minneapolis Zoning Code for the Variance:

1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.

South interior side yard setback: The applicant is seeking a variance to reduce the south interior side yard setback from the required 11 feet to 9 feet 6 inches to allow for the construction of a mixed-use building. Only the eastern half of the building is setback nine feet six inches from the interior property line. The applicant has indicated that the building has been pushed towards the interior property line in order to accommodate for as many parking stalls below the building as possible. The applicant has pointed out that the adjacent house to the south is located 12 feet from the front property line and six feet from the shared interior property line.

2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

South interior side yard setback: The need to accommodate for as many parking stalls below the building is a unique physical characteristic of this site.

3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

South interior side yard setback: Staff believes that the granting of this variance would be in keeping with the spirit and intent of the ordinance. The placement of the adjacent house to the south is such that it should not be impacted by the placement of the proposed building.

4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

South interior side yard setback: Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed setback be detrimental to welfare or public safety.

RECOMMENDATION OF THE CITY PLANNING DEPARTMENT:

The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the south interior side yard setback from the required 11 feet to 9 feet 6 inches to allow for the construction of a mixed-use building.

VARIANCE to reduce the south interior side yard setback from the required 15 feet to 9 feet 6 inches to allow for a side entrance to be located on the mixed-use building.

Findings as Required by the Minneapolis Zoning Code for the Variance:

1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.

South interior side yard setback (entrance): The applicant is seeking a variance to reduce the south interior side yard setback from the required 15 feet to 9 feet 6 inches to allow for a side entrance to be located on the mixed-use building. The applicant has indicated that an entrance is being located on the south side of the building for accessibility purposes. The applicant has indicated that the accessible entrance needs to be located on the south side of the building to accommodate for the varying elevations of the building floor plans and the internal layout of the building in general. The applicant has also indicated that the building has been pushed towards the interior property line in order to accommodate for as many parking stalls below the building as possible. The applicant has pointed out that the adjacent house to the south is located 12 feet from the front property line and six feet from the shared interior property line.

2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

South interior side yard setback (entrance): The need to accommodate for an accessible entrance into the building and for as many parking stalls below the building are unique physical characteristics of this site.

3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

South interior side yard setback (entrance): Staff believes that the granting of this variance would be in keeping with the spirit and intent of the ordinance. The placement of the adjacent house to the south is such that it should not be impacted by the placement of the proposed entrance.

4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

South interior side yard setback (entrance): Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed setback be detrimental to welfare or public safety.

RECOMMENDATION OF THE CITY PLANNING DEPARTMENT:

The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the south interior side yard setback from the required 15 feet to 9 feet 6 inches to allow for a side entrance to be located on the mixed-use building.

VARIANCE to increase the gross floor area of the Neighborhood Serving Retail Sales and Services use from the permitted 2,000 square feet to 4,000 square feet.

Findings as Required by the Minneapolis Zoning Code for the Variance:

1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.

Gross floor area increase: The applicant is seeking a variance to increase the gross floor area of the Neighborhood Serving Retail Sales and Services use from the permitted 2,000 square feet to 4,000 square feet. The applicant has indicated that because the site is located along Franklin Avenue that it demands commercial activity at the corner. The applicant points out that Franklin Avenue is designated as a Commercial Corridor in *The Minneapolis Plan*. The applicant has indicated that although the tenant(s) for the commercial portion of the building has not been secured that having the flexibility to allow one large commercial space or two small commercial spaces within the building would make it easier for marketability purposes. The applicant has indicated that one possible tenant that is looking at the site would like to have more than 2,000 square feet of commercial space for a grocery store.

2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

Gross floor area increase: The location of the site along Franklin Avenue, a designated Community Corridor, is a unique physical characteristic of this site.

3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

Gross floor area increase: Staff believes that the granting of this variance would be in keeping with the spirit and intent of the ordinance. The impact of having one large commercial use in the building should be similar to the impact of having two small commercial uses in the building. In either case, the neighborhood serving retail sales and service uses will be small in size and are designed to service the tenants within the building as well as those living in the immediate vicinity. The applicant is not intending to have uses in the building that will attract people who will have to drive to the location for the goods or the services.

4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

Gross floor area increase: Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the increased gross floor area be detrimental to welfare or public safety.

RECOMMENDATION OF THE CITY PLANNING DEPARTMENT:

The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance to increase the gross floor area of the Neighborhood Serving Retail Sales and Services use from the permitted 2,000 square feet to 4,000 square feet.

SITE PLAN REVIEW

Findings as Required by the Minneapolis Zoning Code:

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)
- B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan. (See Section B Below for Evaluation.)
- C. The site plan is consistent with applicable development plans or development objectives adopted by the city council. (See Section C Below for Evaluation.)

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND FACADE:

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building façade shall provide architectural detail and shall contain windows at the ground level or first floor.
- In larger buildings, architectural elements shall be emphasized.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited where visible from a public street or a residence or office residence district.

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- **Entrances and windows:**
 - **Residential uses shall be subject to section 530.110 (b) (1).**
 - **Nonresidential uses shall be subject to section 530.110 (b) (2).**
- **Parking Garages:** **The exterior design shall ensure that sloped floors do not dominate the appearance of the façade and that vehicles are screened from view. At least thirty (30) percent of the first floor façade that faces a public street or sidewalk shall be occupied by commercial uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.**

PLANNING DEPARTMENT RESPONSE

- This development reinforces the street wall, maximizes natural surveillance and facilitates pedestrian access. The building is set close to the property lines, there are entrances and exits at street level that can be accessed by residents, guests and customers and there are large windows where people can see in and out along all levels of the building.
- This development is located in the OR2 zoning district. The setback off of Portland Avenue is 15 feet. The applicant is asking for a variance to reduce this setback to a range between eight feet and zero feet. The setback off of Franklin Avenue is 14 feet. The applicant is asking for a variance to reduce this setback to 2 feet.
- The applicant is proposing to have landscaping between the building and the Portland Avenue property line. The applicant is also proposing to have landscaping in the boulevard between the street and the sidewalk along both Portland and Franklin Avenues.
- There are individual principal entrances for the neighborhood serving retail sales and service spaces and the residential component along Portland Avenue (please see the attached building elevations). These entrances are located between zero and 10 feet from the property line. There are also principal entrances off of Franklin Avenue that leads to the neighborhood serving retail sales and service spaces (please see the attached building elevations). These entrances are located 2 feet from the property line.
- The parking requirement for this development is 49 parking stalls – 41 parking stalls for the residential portion and 8 parking stalls for the neighborhood serving retail sales and service portion. There are 45 parking stalls provided of which 39 are located in an underground parking garage, 5 are located in a surface parking lot and the bicycle storage area can count for one automobile parking stall. The underground parking garage is accessed via the public alley.
- This development is proposed to be a four-story building. The exterior materials being used on the building include face brick, prefinished metal panels and precast concrete stone. There are entrances and exists at street level and there are large windows on all levels of the building.
- The walls of the building have been broken up into smaller sections through the use of varying setbacks, varying rooflines, front patios, balconies and different exterior materials.
- The sides and back of the building are compatible with the front of the building.
- Plain face block will not be visible from the street.
- The percentage of windows required for the first floor of the two sides of the building that face a public street is 30 percent. According to the submitted drawings, the amount of windows provided on the Portland Avenue side of the building meets the thirty percent requirement and the amount of windows provided on the Franklin Avenue side of the building meets the thirty percent requirement.

ACCESS AND CIRCULATION

- Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.
- Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.
- Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.
- Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.140 (b).
- Areas for snow storage shall be provided unless an acceptable snow removal plan is provided.
- Site plans shall minimize the use of impervious surfaces.

PLANNING DEPARTMENT RESPONSE

- The development conforms to the sidewalk requirements of the zoning code.
- There are no bus stops being proposed as part of this development.
- The development conforms with the zoning code and with the requirements of the Public Works Department in regard to vehicular access and circulation. It appears that the applicant is proposing to widen the curb cut leading into the alley from Franklin Avenue from the existing 12 feet to approximately 18 feet. Staff is recommending that the curb cut leading into the alley remain as it is today.
- The parking requirement for this development is 49 parking stalls – 41 parking stalls for the residential portion and 8 parking stalls for the neighborhood serving retail sales and service portion. There are 45 parking stalls provided of which 39 are located in an underground parking garage, 5 are located in a surface parking lot and the bicycle storage area can count for one automobile parking stall. The underground parking garage is accessed via the public alley.
- According to the applicant, once the project is complete approximately 37 percent of the site will be landscaped (please see the attached landscaping plan).

LANDSCAPING AND SCREENING

- The composition and location of landscaped areas shall complement the scale of the development and its surroundings.
- Not less than twenty (20) percent of the site not occupied by buildings shall be landscaped as specified in section 530.150 (a).
- Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b).
- Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.
- Required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:
 - A decorative fence.
 - A masonry wall.
 - A hedge.
- Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.160 (b).

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- **Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).**
- **The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.**
- **Parking lots containing more than two hundred (200) parking spaces: an additional landscaped area not less than one hundred-fifty (150) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall be landscaped as specified for a required landscaped yard.**
- **All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible. The two (2) feet between the face of the curb and any parking lot boundary shall not be landscaped with plant material, but instead shall be covered with mulch or rock, or be paved.**
- **All other areas not governed by sections 530.150, 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.**
- **Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.220.**
- **The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.60, as provided in section 530.230.**

PLANNING DEPARTMENT RESPONSE

- According to the applicant, once the project is complete approximately 37 percent of the site will be landscaped (please see the attached landscaping plan). The city's landscaping consultant has not reviewed the landscaping plan.
- The applicant is proposing to install a 6-foot high fence around the outdoor recreation area located at the rear of the site.

ADDITIONAL STANDARDS

- **Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.**
- **Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.**
- **Site plans shall minimize the blocking of views of important elements of the city.**
- **Buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.**
- **Buildings shall be located and arranged to minimize the generation of wind currents at ground level.**
- **Site plans shall include crime prevention design elements as specified in section 530.260.**
- **Site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.**

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PLANNING DEPARTMENT RESPONSE

- A lighting plan was not submitted as part of this development.
- The parking requirement for this development is 49 parking stalls – 41 parking stalls for the residential portion and 8 parking stalls for the neighborhood serving retail sales and service portion. There are 45 parking stalls provided of which 39 are located in an underground parking garage, 5 are located in a surface parking lot and the bicycle storage area can count for one automobile parking stall. The underground parking garage is accessed via the public alley.
- The development should not block views of important elements within the city.
- The development should have minimal light and air effects on the surrounding area.
- This development should have minimal wind effects on the surrounding area.
- The Crime Prevention Specialist has reviewed the project in regards to crime prevention design elements. To ensure the welfare of the residents of the development and the residents of the area the Crime Prevention Specialist has indicated that there should be a gate leading into the pass-through along Portland Avenue and that the trash dumpster be enclosed and secured with a lock.
- This site is neither historic nor located in a historic district.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan

ZONING CODE

With the approval of the rezoning, conditional use permit, seven variances, site plan review and the preliminary plat the project will be in conformance with the requirements of the zoning code.

THE MINNEAPOLIS PLAN

This site is located in a medium-density residential area and along a designated Commercial Corridor (Franklin Avenue). According to the Principles and Policies outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Support development in commercial corridors where it enhances the street's character, improves its ability to accommodate automobile traffic and foster pedestrian movement, and expands the range of goods and services.
- Maintain and strengthen the character of the city's various residential areas.
- Orient new buildings to the street to foster safer neighborhoods and safe and successful commercial nodes and corridors.

This proposal is consistent with the comprehensive plan.

Section C: Conformance with Applicable Development Plans or Objectives Adopted by the City Council

Staff is not aware of any small area plans adopted by the Minneapolis City Council for this particular location.

ALTERNATIVE COMPLIANCE

The Planning Commission may approve alternatives to any major site plan review requirement upon finding any of the following:

- The alternative meets the intent of the site plan chapter and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.
- Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.
- The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.

PLANNING DEPARTMENT RESPONSE

- Alternative compliance is not warranted for this site.

RECOMMENDATION OF THE CITY PLANNING DEPARTMENT:

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application for the properties located at 2000 and 2012 Portland Avenue for Phase II of a multi-phased Planned Unit Development subject to the following conditions:

1. The Planning Department shall approve the final site, elevation and landscaping plans.
2. The Planning Department shall approve the final lighting plan.
3. The width of the curb cut leading into the alley from Franklin Avenue shall not be widened.
4. The signs for the neighborhood serving retail sales and service uses shall be no larger than thirty square feet.
5. The applicant shall obtain an encroachment permit from the Public Works Department for any work done in the right-of-way.
6. All site improvements shall be completed by May 15, 2005, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
7. The applicant shall submit a performance bond in the amount of 125% of the estimated site improvement costs before building permits are issued, or the permit may be revoked for non-compliance.

TRAVEL DEMAND MANAGEMENT PLAN

A draft Travel Demand Management plan has been submitted that examines all phases of the Franklin-Portland Gateway development. The Public Works Department and the Planning Department are in the process of reviewing the document at this time. Prior to Phase Three of the development being reviewed by the City Planning Commission the Travel Demand Management Plan needs to be approved by the Public Works Department and the Planning Department.

PRELIMINARY PLAT (PL-130)

Required Findings:

1. Subdivision is in conformance with the land subdivision regulations including the requirements of section 598.100 relating to protection of natural resources, applicable regulations of the Zoning Code, and policies of the Comprehensive Plan.

DESIGN REQUIREMENTS

The lot being created has frontage on public street.

The lot being created does not have more than one zoning classification.

No nonconforming structures or uses result from this plat.

RESIDENTIAL DEVELOPMENT DESIGN

Block dimensions meet the requirements of the land subdivision ordinance.

Lot dimensions exceed the minimum dimensions in the zoning code and none of the created lots have more than five sides.

ZONING CODE

With the approval of the rezoning, conditional use permit, seven variances, site plan review and the preliminary plat the project will be in conformance with the requirements of the zoning code.

THE MINNEAPOLIS PLAN

This site is located in a medium-density residential area and along a designated Commercial Corridor (Franklin Avenue). According to the Principles and Policies outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Support development in commercial corridors where it enhances the street's character, improves its ability to accommodate automobile traffic and foster pedestrian movement, and expands the range of goods and services.
- Increase the variety of housing types (affordability, style, location) throughout the city, its communities and metro area, giving prospective buyers and renters greater choice in where they live.
- Increase the city's population and tax base by developing and supporting housing choices citywide through preservation of existing housing and new construction.

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- Encourage in-fill housing.
- Maintain and strengthen the character of the city's various residential areas.

This proposal is consistent with the comprehensive plan.

2. Subdivision will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor be detrimental to present and potential surrounding land uses, nor add substantially to congestion in the public streets.

Use

Utilizing the site for a mixed-use development including 41 dwellings would provide additional opportunities for housing within the city. The addition of 41 dwellings will promote visibility in the neighborhood. There will be an on-site management service that will maintain the building and its grounds and therefore will help preserve the characteristics of this neighborhood. Adjacent uses include single and two-family dwellings, multiple-family dwellings, commercial uses located along Franklin Street and a public park. The mixed-use development should not negatively impact the adjacent uses.

Character

The proposed height (4 stories) of the development will be compatible with the varying heights of the surrounding buildings. The applicant proposes the use of building materials and colors that are also compatible with the surrounding buildings.

Parking and Access

The parking requirement for this development is 49 parking stalls – 41 parking stalls for the residential portion and 8 parking stalls for the neighborhood serving retail sales and service portion. There are 45 parking stalls provided of which 39 are located in an underground parking garage, 5 are located in a surface parking lot and the bicycle storage area can count for one automobile parking stall. Staff believes that although this development is not meeting its parking requirement that there is sufficient parking on the site for the uses within the building. The proposed neighborhood serving retail sales and service uses will be small in size and are designed to service the tenants within the building as well as those living in the immediate vicinity. The applicant is not intending to have uses in the building that will attract people who will have to drive to the location for the goods or the services.

3. All land intended for building sites can be used safely without endangering the residents or uses of the subdivision and the surrounding area by peril from floods, erosion, high water table, severe soil conditions, improper drainage, steep slopes, utility easements, rock formations, or other hazard.

The site is flat and does not present the above hazards.

4. The lot arrangement is such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits and in providing driveway access to buildings on such lots from an approved street. Each lot created through subdivision is suitable in its natural state for the proposed use with minimal alteration.

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The lot being created by this plat presents no foreseeable difficulties for the proposed development. No significant alterations to the land appear necessary.

5. The subdivision makes adequate provision for storm or surface water runoff, and temporary and permanent erosion control. The stormwater drainage system shall be separate and independent of any sanitary sewer system. All plans shall be designed in accordance with rules, regulations and standards of the city engineer. Facilities intended to be dedicated to the City shall be located in perpetual, unobstructed easements of a width determined to be adequate and necessary by the city engineer. To the extent practicable, the amount of stormwater runoff from the site after development does not exceed the amount occurring prior to development.

Public Works will review and approve drainage and sanitary system plans before issuance of building permits.

Required Findings for a Preliminary Plat in conjunction with a Planned Unit Development:

Section 598.260 Planned Unit development and Cluster design requires the design of a subdivision for a cluster development to implement the site plan as approved by the Planning Commission and shall include a deed restriction, at the time of submitting the final plat, designating the following:

1. The relationship between all common spaces and each individual lot (rights in the common spaces and proportionate ownership accruing to the individual lot).

According to the City Attorney's Office, a recordable instrument must be reviewed and approved by the City Attorney's Office to ensure that common elements of the Planned Unit Development are accessible to the users dependent on those elements and to ensure maintenance of those elements. These documents need to be reviewed prior to final plat approval.

2. Provision for access to each lot that does not have frontage on a public street.

The lot being created has frontage on public street.

3. A requirement that an owner's association be created. The duties and responsibilities of the owner's association shall include maintaining the elements of the planned unit development as authorized under the zoning ordinance or other applicable regulations.

It is unlikely that the association documents will require approval by the City because the proposal does not include the creation of individual lots within the residential lot for the sale to owners.

4. A provision that the taxes, special assessments, and other charges and fees that would normally be levied against the common spaces shall be levied against the individual lot occupied or to be occupied by buildings in direct proportion to the interest that is stated in the deed restriction and shall provide that such levies shall be a lien against the individual lots.

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According to the City Attorney's Office, a recordable instrument must be reviewed and approved by the City Attorney's Office to ensure common elements of the Planned Unit Development are accessible to the users dependent on those elements and to ensure maintenance of those elements. These documents need to be reviewed prior to final plat approval.

5. A requirement that any disposition of any of the common property situated within the planned unit development shall not be made without the prior approval of the Planning Commission.

Any modifications made to the conditional use permit shall be submitted to the Planning Department for review and approval.

RECOMMENDATION OF THE CITY PLANNING DEPARTMENT:

The City Planning Department recommends that the City Planning Commission adopt the above findings and approve the subdivision application for the properties located at 2000 and 2012 Portland Avenue for Phase II of a multi-phased Planned Unit Development subject to the following conditions:

1. The applicant is subject to 598.260(1) through (5) at the time of the final plat.
2. The applicant is subject to 598.330, recording of subdivision approval. The final plat shall be filed with the Office of the Hennepin County Recorder and evidence of proper filing shall be submitted to the Zoning Administrator prior to the issuance of any building permits.